

Introduced by Senator Leno

February 23, 2015

An act to amend Sections 47605, 47610, and 48925 of, and to add Section 49068.7 to, the Education Code, relating to charter schools.

LEGISLATIVE COUNSEL'S DIGEST

SB 322, as introduced, Leno. Charter schools: pupils: suspension and expulsion: admissions: departures.

(1) The Charter Schools Act of 1992 permits teachers and parents to petition the governing board of a school district to approve a charter school to operate independently from the existing school district structure as a method of accomplishing, among other things, improved pupil learning. Existing law exempts charter schools from the laws governing school districts except those of the Charter Schools Act, those establishing minimum age for public school attendance, specified building code regulations, and other specified laws.

Existing law enumerates the acts for which a pupil may be suspended or expelled from school and sets forth procedures a school district is required to follow in suspending or expelling a pupil.

This bill would require a charter school to comply with laws governing school districts relating to the suspension and expulsion of pupils, thereby imposing a state-mandated local program. The bill would also make conforming changes.

(2) Existing law prohibits the governing board of a school district from denying a petition for the establishment of a charter school unless the governing board of the school district finds that the petition does not contain specified information, including a reasonably comprehensive descriptions of certain things, including admission requirements, if applicable.

This bill would delete admission requirements from the list of things that a petition is required to have a reasonably comprehensive description of.

(3) Existing law requires, if a pupil is expelled or leaves a charter school without graduating or completing the school year, the charter school to notify the superintendent of the school district of the pupils's last known address within 30 days, and is required to, upon request, provide the school with certain information, including a transcript.

This bill would require the charter school to notify the superintendent of the school district within 10 days of the pupil's departure and would require the charter school to provide the reason for the pupil's departure. By imposing additional duties on charter school officials, the bill would impose a state-mandated local program.

(4) This bill also would require each school district to draft and implement a policy to annually collect data about teacher turnover at each of its schools, and at each charter school it authorizes. By imposing additional duties on school districts, and to the extent this would impose additional duties on charter school officials, the bill would impose a state-mandated local program. The bill would specify that the data collected shall be subject to the California Public Records Act.

(5) This bill would state the intent of the Legislature in enacting its provisions, and would update references and make other nonsubstantive changes.

(6) The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature in enacting this
2 act to do all of the following:

3 (a) Ensure equal access to interested pupils at charter schools
4 and prohibit practices that discourage enrollment or
5 disproportionately push out segments of already enrolled pupils.

6 (b) Ensure that charter school discipline policies are fair and
7 transparent.

8 (c) Ensure that a pupil's constitutional right to due process is
9 protected at charter schools.

10 (d) Consistent with Section 5 of Article IX of the California
11 Constitution, ensure that charter schools operate within the system
12 of common schools by remaining "... free, nonsectarian and open
13 to all students..." as stated in *Wilson v. State Board of Education*
14 (1999) 75 Cal.App.4th 1125, 1137–38.

15 (e) Gather data on pupil and teacher turnover in the charter
16 school environment.

17 SEC. 2. Section 47605 of the Education Code is amended to
18 read:

19 47605. (a) (1) Except as set forth in paragraph (2), a petition
20 for the establishment of a charter school within a school district
21 may be circulated by one or more persons seeking to establish the
22 charter school. A petition for the establishment of a charter school
23 shall identify a single charter school that will operate within the
24 geographic boundaries of that school district. A charter school
25 may propose to operate at multiple sites within the school district,
26 as long as each location is identified in the charter school petition.
27 The petition may be submitted to the governing board of the school
28 district for review after either of the following conditions is met:

29 (A) The petition is signed by a number of parents or legal
30 guardians of pupils that is equivalent to at least one-half of the
31 number of pupils that the charter school estimates will enroll in
32 the *charter* school for its first year of operation.

33 (B) The petition is signed by a number of teachers that is
34 equivalent to at least one-half of the number of teachers that the
35 charter school estimates will be employed at the *charter* school
36 during its first year of operation.

37 (2) A petition that proposes to convert an existing public school
38 to a charter school that would not be eligible for a loan pursuant

1 to subdivision-~~(b)~~ (c) of Section 41365 may be circulated by one
2 or more persons seeking to establish the charter school. The petition
3 may be submitted to the governing board of the school district for
4 review after the petition is signed by not less than 50 percent of
5 the permanent status teachers currently employed at the public
6 school to be converted.

7 (3) A petition shall include a prominent statement that a
8 signature on the petition means that the parent or legal guardian
9 is meaningfully interested in having his or her child or ward attend
10 the charter school, or in the case of a teacher's signature, means
11 that the teacher is meaningfully interested in teaching at the charter
12 school. The proposed charter shall be attached to the petition.

13 (4) After receiving approval of its petition, a charter school that
14 proposes to establish operations at one or more additional sites
15 shall request a material revision to its charter and shall notify the
16 authority that granted its charter of those additional locations. The
17 authority that granted its charter shall consider whether to approve
18 those additional locations at an open, public meeting. If the
19 additional locations are approved,~~they~~ *there* shall be a material
20 revision to the charter school's charter.

21 (5) A charter school that is unable to locate within the
22 jurisdiction of the chartering school district may establish one site
23 outside the boundaries of the school district, but within the county
24 in which that school district is located, if the school district within
25 the jurisdiction of which the charter school proposes to operate is
26 notified in advance of the charter petition approval, the county
27 superintendent of schools and the Superintendent are notified of
28 the location of the charter school before it commences operations,
29 and either of the following circumstances exists:

30 (A) The school has attempted to locate a single site or facility
31 to house the entire program, but a site or facility is unavailable in
32 the area in which the school chooses to locate.

33 (B) The site is needed for temporary use during a construction
34 or expansion project.

35 (6) Commencing January 1, 2003, a petition to establish a charter
36 school ~~may~~ *shall* not be approved to serve pupils in a grade level
37 that is not served by the school district of the governing board
38 considering the petition, unless the petition proposes to serve pupils
39 in all of the grade levels served by that school district.

(b) No later than 30 days after receiving a petition, in accordance with subdivision (a), the governing board of the school district shall hold a public hearing on the provisions of the charter, at which time the governing board of the school district shall consider the level of support for the petition by teachers employed by the *school* district, other employees of the *school* district, and parents. Following review of the petition and the public hearing, the governing board of the school district shall either grant or deny the charter within 60 days of receipt of the petition, provided, however, that the date may be extended by an additional 30 days if both parties agree to the extension. In reviewing petitions for the establishment of charter schools pursuant to this section, the chartering authority shall be guided by the intent of the Legislature that charter schools are and should become an integral part of the California educational system and that *the* establishment of charter schools should be encouraged. The governing board of the school district shall grant a charter for the operation of a school under this part if it is satisfied that granting the charter is consistent with sound educational practice. The governing board of the school district shall not deny a petition for the establishment of a charter school unless it makes written factual findings, specific to the particular petition, setting forth specific facts to support one or more of the following findings:

(1) The charter school presents an unsound educational program for the pupils to be enrolled in the charter school.

(2) The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.

(3) The petition does not contain the number of signatures required by subdivision (a).

(4) The petition does not contain an affirmation of each of the conditions described in subdivision (d).

(5) The petition does not contain reasonably comprehensive descriptions of all of the following:

(A) (i) A description of the educational program of the *charter* school, designed, among other things, to identify those whom the *charter* school is attempting to educate, what it means to be an “educated person” in the 21st century, and how learning best occurs. The goals identified in that program shall include the objective of enabling pupils to become self-motivated, competent, and lifelong learners.

(ii) A description, for the charter school, of annual goals, for all pupils and for each subgroup of pupils identified pursuant to Section 52052, to be achieved in the state priorities, as described in subdivision (d) of Section 52060, that apply for the grade levels served, or the nature of the program operated, by the charter school, and specific annual actions to achieve those goals. A charter petition may identify additional school priorities, the goals for the school priorities, and the specific annual actions to achieve those goals.

(iii) If the proposed *charter* school will serve high school pupils, a description of the manner in which the charter school will inform parents about the transferability of courses to other public high schools and the eligibility of courses to meet college entrance requirements. Courses offered by the charter school that are accredited by the Western Association of Schools and Colleges may be considered transferable and courses approved by the University of California or the California State University as creditable under the “A” to “G” admissions criteria may be considered to meet college entrance requirements.

(B) The measurable pupil outcomes identified for use by the charter school. “Pupil outcomes,” for purposes of this part, means the extent to which all pupils of the *charter* school demonstrate that they have attained the skills, knowledge, and attitudes specified as goals in the *charter* school’s educational program. Pupil outcomes shall include outcomes that address increases in pupil academic achievement both schoolwide and for all groups of pupils served by the charter school, as that term is defined in subparagraph (B) of paragraph (3) of subdivision (a) of Section 47607. The pupil outcomes shall align with the state priorities, as described in subdivision (d) of Section 52060, that apply for the grade levels served, or the nature of the program operated, by the charter school.

(C) The method by which pupil progress in meeting those pupil outcomes is to be measured. To the extent practicable, the method for measuring pupil outcomes for state priorities shall be consistent with the way information is reported on a school accountability report card.

(D) The governance structure of the *charter* school, including, but not limited to, the process to be followed by the *charter* school to ensure parental involvement.

1 (E) The qualifications to be met by individuals to be employed
2 by the *charter* school.

3 (F) The procedures that the *charter* school will follow to ensure
4 the health and safety of pupils and staff. These procedures shall
5 include the requirement that each employee of the *charter* school
6 furnish ~~the school~~ *it* with a criminal record summary as described
7 in Section 44237.

8 (G) The means by which the *charter* school will achieve a racial
9 and ethnic balance among its pupils that is reflective of the general
10 population residing within the territorial jurisdiction of the school
11 district to which the charter petition is submitted.

12 ~~(H) Admission requirements, if applicable.~~

13 ~~(H)~~

14 (H) The manner in which annual, independent financial audits
15 shall be conducted, which shall employ generally accepted
16 accounting principles, and the manner in which audit exceptions
17 and deficiencies shall be resolved to the satisfaction of the
18 chartering authority.

19 ~~(J)~~

20 (I) The procedures by which pupils can be suspended or
21 expelled.

22 ~~(K)~~

23 (J) The manner by which staff members of the charter schools
24 will be covered by the State Teachers' Retirement System, the
25 Public Employees' Retirement System, or federal social security.

26 ~~(L)~~

27 (K) The public school attendance alternatives for pupils residing
28 within the school district who choose not to attend charter schools.

29 ~~(M)~~

30 (L) A description of the rights of ~~any~~ *an* employee of the school
31 district upon leaving the employment of the school district to work
32 in a charter school, and of any rights of return to the school district
33 after employment at a charter school.

34 ~~(N)~~

35 (M) The procedures to be followed by the charter school and
36 the entity granting the charter to resolve disputes relating to
37 provisions of the charter.

38 ~~(O)~~

39 (N) A declaration *of* whether or not the charter school shall be
40 deemed the exclusive public school employer of the employees of

1 the charter school for purposes of Chapter 10.7 (commencing with
2 Section 3540) of Division 4 of Title 1 of the Government Code.

3 ~~(P)~~

4 (O) A description of the procedures to be used if the charter
5 school closes. The procedures shall ensure a final audit of the
6 *charter* school to determine the disposition of all assets and
7 liabilities of the charter school, including plans for disposing of
8 any net assets and for the maintenance and transfer of pupil records.

9 (c) (1) Charter schools shall meet all statewide standards and
10 conduct the pupil assessments required pursuant to Sections 60605
11 and 60851 and any other statewide standards authorized in statute
12 or pupil assessments applicable to pupils in noncharter public
13 schools.

14 (2) Charter schools shall, on a regular basis, consult with their
15 parents, legal guardians, and teachers regarding the *charter* school's
16 educational programs.

17 (d) (1) In addition to any other requirement imposed under this
18 part, a charter school shall be nonsectarian in its programs,
19 admission policies, employment practices, and all other operations,
20 shall not charge tuition, and shall not discriminate against ~~any~~ a
21 pupil on the basis of the characteristics listed in Section 220. Except
22 as provided in paragraph (2), admission to a charter school shall
23 not be determined according to the place of residence of the pupil,
24 or of his or her parent or legal guardian, within this state, except
25 that an existing public school converting partially or entirely to a
26 charter school under this part shall adopt and maintain a policy
27 giving admission preference to pupils who reside within the former
28 attendance area of that public school.

29 (2) (A) A charter school shall admit all pupils who wish to
30 attend the *charter* school.

31 (B) If the number of pupils who wish to attend the charter school
32 exceeds the *charter* school's capacity, attendance, except for
33 existing pupils of the charter school, shall be determined by a
34 public random drawing. Preference shall be extended to pupils
35 currently attending the charter school and pupils who reside in the
36 *school* district except as provided for in Section 47614.5. Other
37 preferences may be permitted by the chartering authority on an
38 individual school basis and only if consistent with the law.

39 (C) In the event of a drawing, the chartering authority shall
40 make reasonable efforts to accommodate the growth of the charter

1 school and in no event shall take any action to impede the charter
2 school from expanding enrollment to meet pupil demand.

3 (3) If a pupil is expelled or leaves the charter school without
4 graduating or completing the school year for any reason, the charter
5 school shall notify the superintendent of the school district of the
6 pupil's last known address within ~~30 days, and shall, upon request,~~
7 *10 days and shall* provide that school district with a copy of the
8 cumulative record of the pupil, including a transcript of grades or
9 report card, ~~and health information.~~ *health information, and the*
10 *reason for the pupil's departure.* This paragraph applies only to
11 pupils subject to compulsory full-time education pursuant to
12 Section 48200.

13 (e) The governing board of a school district shall not require
14 ~~any~~ *an* employee of the school district to be employed in a charter
15 school.

16 (f) The governing board of a school district shall not require
17 ~~any~~ *a* pupil enrolled in the school district to attend a charter school.

18 (g) The governing board of a school district shall require that
19 the petitioner or petitioners provide information regarding the
20 proposed operation and potential effects of the *charter* school,
21 including, but not limited to, the facilities to be used by the *charter*
22 school, the manner in which administrative services of the *charter*
23 school are to be provided, and potential civil liability effects, if
24 any, upon the *charter* school and upon the school district. The
25 description of the facilities to be used by the charter school shall
26 specify where the *charter* school intends to locate. The petitioner
27 or petitioners *also* shall ~~also~~ be required to provide financial
28 statements that include a proposed first-year operational budget,
29 including startup costs, and cashflow and financial projections for
30 the first three years of operation.

31 (h) In reviewing petitions for the establishment of charter
32 schools within the school district, the governing board of the school
33 district shall give preference to petitions that demonstrate the
34 capability to provide comprehensive learning experiences to pupils
35 identified by the petitioner or petitioners as academically low
36 achieving pursuant to the standards established by the department
37 under Section 54032, as it read before July 19, 2006.

38 (i) Upon the approval of the petition by the governing board of
39 the school district, the petitioner or petitioners shall provide written
40 notice of that approval, including a copy of the petition, to the

1 applicable county superintendent of schools, the department, and
2 the state board.

3 (j) (1) If the governing board of a school district denies a
4 petition, the petitioner may elect to submit the petition for the
5 establishment of a charter school to the county board of education.
6 The county board of education shall review the petition pursuant
7 to subdivision (b). If the petitioner elects to submit a petition for
8 establishment of a charter school to the county board of education
9 and the county board of education denies the petition, the petitioner
10 may file a petition for establishment of a charter school with the
11 state board, and the state board may approve the petition, in
12 accordance with subdivision (b). A charter school that receives
13 approval of its petition from a county board of education or from
14 the state board on appeal shall be subject to the same requirements
15 concerning geographic location to which it would otherwise be
16 subject if it received approval from the entity to which it originally
17 submitted its petition. A charter petition that is submitted to either
18 a county board of education or to the state board shall meet all
19 otherwise applicable petition requirements, including the
20 identification of the proposed site or sites where the charter school
21 will operate.

22 (2) In assuming its role as a chartering agency, the state board
23 shall develop criteria to be used for the review and approval of
24 charter school petitions presented to the state board. The criteria
25 shall address all elements required for charter approval, as
26 identified in subdivision (b) and shall define “reasonably
27 ~~comprehensive~~” *comprehensive*,” as used in paragraph (5) of
28 subdivision ~~(b)~~ (b), in a way that is consistent with the intent of
29 this part. Upon satisfactory completion of the criteria, the state
30 board shall adopt the criteria on or before June 30, 2001.

31 (3) A charter school for which a charter is granted by either the
32 county board of education or the state board based on an appeal
33 pursuant to this subdivision shall qualify fully as a charter school
34 for all funding and other purposes of this part.

35 (4) If either the county board of education or the state board
36 fails to act on a petition within 120 days of receipt, the decision
37 of the governing board of the school district to deny ~~a~~ *the* petition
38 ~~shall, thereafter, shall~~ be subject to judicial review.

39 (5) The state board shall adopt regulations implementing this
40 subdivision.

1 (6) Upon the approval of the petition by the county board of
2 education, the petitioner or petitioners shall provide written notice
3 of that approval, including a copy of the petition to the department
4 and the state board.

5 (k) (1) The state board may, by mutual agreement, designate
6 its supervisory and oversight responsibilities for a charter school
7 approved by the state board to any local educational agency in the
8 county in which the charter school is located or to the governing
9 board of the school district that first denied the petition.

10 (2) The designated local educational agency shall have all
11 monitoring and supervising authority of a chartering agency,
12 including, but not limited to, powers and duties set forth in Section
13 47607, except the power of revocation, which shall remain with
14 the state board.

15 (3) A charter school that is granted its charter through an appeal
16 to the state board and elects to seek renewal of its charter shall,
17 before expiration of the charter, submit its petition for renewal to
18 the governing board of the school district that initially denied the
19 charter. If the governing board of the school district denies the
20 *charter* school's petition for renewal, the *charter* school may
21 petition the state board for renewal of its charter.

22 (l) Teachers in charter schools shall hold a Commission on
23 Teacher Credentialing certificate, permit, or other document
24 equivalent to that which a teacher in other public schools would
25 be required to hold. These documents shall be maintained on file
26 at the charter school and are subject to periodic inspection by the
27 chartering authority. It is the intent of the Legislature that charter
28 schools be given flexibility with regard to noncore, noncollege
29 preparatory courses.

30 (m) A charter school shall transmit a copy of its annual,
31 independent financial audit report for the preceding fiscal year, as
32 described in subparagraph (I) of paragraph (5) of subdivision (b),
33 to its chartering entity, the Controller, the county superintendent
34 of schools of the county in which the charter school is sited, unless
35 the county board of education of the county in which the charter
36 school is sited is the chartering entity, and the department by
37 December 15 of each year. This subdivision does not apply if the
38 audit of the charter school is encompassed in the audit of the
39 chartering entity pursuant to Section 41020.

SEC. 3. Section 47610 of the Education Code is amended to read:

47610. A charter school shall comply with this part and all of the provisions set forth in its charter, but is otherwise exempt from the laws governing school districts, except all of the following:

~~(a) As specified in Section 47611.~~

~~(b) As specified in Section 41365.~~

~~(c)~~

(a) All laws establishing minimum age for public school attendance.

~~(d)~~

(b) The California Building Standards Code (Part 2 (commencing with Section 101) of Title 24 of the California Code of Regulations), as adopted and enforced by the local building enforcement agency with jurisdiction over the area in which the charter school is located. *Charter school facilities shall comply with this subdivision by January 1, 2007.*

~~(c) Charter school facilities shall comply with subdivision (d) by January 1, 2007.~~

(c) Sections 41365 and 47611 and Article 1 (commencing with Section 48900) of Chapter 6 of Part 27.

SEC. 4. Section 48925 of the Education Code is amended to read:

48925. As used in this article:

(a) “Day” means a calendar day unless otherwise specifically provided.

(b) “Expulsion” means removal of a pupil from (1) the immediate supervision and control, or (2) the general supervision, of school personnel, as those terms are used in Section 46300.

(c) “Governing board” means the governing board of a school district or the governing body of a charter school.

(d) “Principal” means the principal of the school or the site administrator of a charter school.

(e) “Pupil” includes a pupil’s parent or guardian or legal counsel.

(f) “School” includes a charter school.

~~(g)~~

(g) “Schoolday” means a day upon which the schools of the district are in session or weekdays during the summer recess.

~~(h)~~

1 (h) “Suspension” means removal of a pupil from ongoing
2 instruction for adjustment purposes. However, “suspension” does
3 not mean any of the following:

4 (1) Reassignment to another education program or class at the
5 same school where the pupil will receive continuing instruction
6 for the length of day prescribed by the governing board for pupils
7 of the same grade level.

8 (2) Referral to a certificated employee designated by the
9 principal to advise pupils.

10 (3) Removal from the class, but without reassignment to another
11 class or program, for the remainder of the class period without
12 sending the pupil to the principal or the principal’s designee as
13 provided in Section 48910. Removal from a particular class shall
14 not occur more than once every five schooldays.

15 ~~(e) “Pupil” includes a pupil’s parent or guardian or legal counsel.~~

16 SEC. 5. Section 49068.7 is added to the Education Code, to
17 read:

18 49068.7. (a) Each school district shall draft and implement a
19 policy to annually collect data about teacher turnover at each of
20 its schools, and at each charter school it authorizes.

21 (b) Subject to existing state and federal law regarding privacy
22 and personal directory information, the data collected pursuant to
23 this section shall be classified as public records subject to the
24 California Public Records Act (Chapter 3.5 (commencing with
25 Section 6250) of Division 7 of Title 1 of the Government Code).

26 SEC. 6. The Legislature finds and declares that Section 5 of
27 this act, which adds Section 49068.7 to the Education Code,
28 furthers, within the meaning of paragraph (7) of subdivision (b)
29 of Section 3 of Article I of the California Constitution, the purposes
30 of that constitutional section as it relates to the right of public
31 access to the meetings of local public bodies or the writings of
32 local public officials and local agencies. Pursuant to paragraph (7)
33 of subdivision (b) of Section 3 of Article I of the California
34 Constitution, the Legislature makes the following findings:

35 By making public the reasons for teacher turnover at charter
36 schools, the public’s interest in charter school operation and
37 transparency is furthered.

38 SEC. 7. If the Commission on State Mandates determines that
39 this act contains costs mandated by the state, reimbursement to
40 local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

O